

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: BAIR HUGGER FORCED AIR      MDL No.: 15-md-02666 (JNE/FLN)  
WARMING PRODUCT LIABILITY  
LITIGATION

This Document Relates To:

KEVIN RASHAD,

Civil Action No.: 17-CV-02589-JNE-FLN

Plaintiff,

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**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

NOW COMES Plaintiff, Kevin Rashad, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1068], and by and through undersigned counsel submits this, his Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In July of 2015, Mr. Kevin Rashad contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery.
3. On July 6, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

4. Efforts to have Mr. Rashad complete the Plaintiff Fact Sheet were complicated by him not answering phone calls, returning voice messages, or responding to contact letters or emails.
5. Phone calls by Kennedy Hodges staff went unanswered on the following dates: July 6, 2017, July 17, 2017, August 14, 2017, September 20, 2017, October 2, 2017, December 7, 2017, December 13, 2017, and February 1, 2018.
6. Additionally, written correspondence consisting of letters or emails requesting that Mr. Rashad contact Kennedy Hodges was sent on the following dates: July 6, 2017, September 20, 2017, December 7, 2017, December 13, 2017, and February 1, 2018.
7. While counsel has diligently continued their attempts to contact Mr. Rashad for several months, those efforts have not been successful to date.
8. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Mr. Rashad be given an additional sixty (60) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: February 8, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges  
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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

This is to certify that on February 8, 2018 a copy of the forgoing instrument was served on all parties via the Court's electronic filing system.

By: /s/ David W. Hodges  
David W. Hodges